

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ROBERT MILLER,

Plaintiff,

v.

BRIAN COLLIER, ET AL.,

Defendants.

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Case No. 6:19-CV-596-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Robert Miller, an inmate proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. This case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636. On December 23, 2019, Judge Mitchell issued a Report and Recommendation (Docket No. 4), recommending that the action be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). *Id.* at 5. A return receipt indicating delivery to Plaintiff was received by the Clerk on January 2, 2020. Docket No. 7.

This Court reviews the findings and conclusions of the Magistrate Judge *de novo* only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a *de novo* review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period.¹ The Court therefore reviews the Magistrate Judge's findings

¹ After the Report and Recommendation was filed, Plaintiff filed two motions to dismiss, stating that he would dismiss

for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”).

Having reviewed the Magistrate Judge’s Report and Recommendation, the Court adopts the Report and Recommendation of the United States Magistrate Judge (Docket No. 4) as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge’s Report (Docket No. 4) be **ADOPTED**. It is further


ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g).

In accordance with the Court’s order entered in *Miller v. Bustos*, No. 6:20-cv-167, at *4–5 (May 21, 2020), Plaintiff Robert Miller may not refile this lawsuit unless he first obtains written permission from a judge of this Court or the Fifth Circuit Court of Appeals and pays in advance the full filing fee of \$400.00. The Clerk shall not file or return any motions or other pleadings filed by Plaintiff Robert Miller in this lawsuit, except for a notice of appeal, which must be accompanied by the appeal fee of \$505.00. Plaintiff shall not be granted leave to proceed *in forma pauperis* on appeal in this civil action.

this lawsuit if the Court granted him an “immediate transfer” to the Montford Unit and issued a “restraining order against Lorenzo Bustos.” Docket Nos. 5–6. These motions do not present any arguments against or mention the Magistrate Judge’s Report and Recommendation and therefore cannot be construed as objections.

So ordered and signed on this

Jun 22, 2020


JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE